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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DARNELL MCGARY,

Plaintiff,

v.

DR. TIM MCBATH, *et al*,

Defendants.

Case No. C05-5284FDB

ORDER DISMISSING
FRIVOLOUS COMPLAINT

The Magistrate Judge recommends that this 42 U.S.C. § 1983 complaint be dismissed for certain fatal deficiencies and because it is frivolous. The Magistrate Judge gave Plaintiff an opportunity to amend his complaint, which, however, remained fatally deficient, as the allegations remained the same and Plaintiff failed to sufficiently allege facts showing that Defendants conspired to deprive him of his constitutional rights. Plaintiff has filed a response to the Report and Recommendation, which the Court has reviewed together with the Complaint and the Amended Complaint. Plaintiff has not demonstrated that the Magistrate Judge's conclusion is in error.

The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the report and recommendation, and the remaining record, does hereby find and

ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) Plaintiff's complaint is DISMISSED WITH PREJUDICE as frivolous; and
- (3) The Clerk is directed to send copies of this Order to plaintiff and to the Hon. Karen L. Strombom.

DATED this 12th day of July 2005.


FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE